

**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS**

IN RE NEW ENGLAND COMPOUNDING
PHARMACY, INC. PRODUCTS
LIABILITY LITIGATION

MDL No. 2419
Dkt. No. 1:13-md-2419 (FDS)

THIS DOCUMENT RELATES TO:

All Actions

**JOINTLY PROPOSED AGENDA
FOR THE DECEMBER 13, 2013 STATUS CONFERENCE**

The Plaintiffs' Steering Committee, Ameridose LLC, New England Compounding Pharmacy, Inc. (through both the Trustee and counsel), and Official Committee of Unsecured Creditors (through counsel)¹ jointly propose the following agenda for the December 13, 2013 status conference:

1. Update on subpoenas and objections
 - a. PSC's Anticipated Motions to Compel Responses to Subpoenas
2. Status of mediation efforts [Mediation Order, Dkt. No. 394]
3. Master Complaint and responsive pleadings
 - a. Short Form Complaints against Unaffiliated Defendants by existing plaintiffs due December 20, 2013
 - b. Master Complaint and Short Form Complaint against the Affiliated Defendants currently due December 20, 2013
4. Tennessee Defendants' motions
 - a. Tennessee Defendants' Motion for Reconsideration of MDL Order #7 [Dkt. No. 457]
 - i. Tennessee Defendants' Response to Court's Directive in Further Support of Motion to Reconsider MDL Order No. 7 [Dkt. Nos. 592, 593, 597]
 - ii. PSC's Notice of Filing of Plaintiffs' Steering Committee's Proposal on Saint Thomas Motion for Reconsideration [Dkt. No. 591]

¹ All defendants whose counsel have filed notices of appearance in the MDL were provided an opportunity to comment on the agenda.

- b. Saint Thomas Motion for Entry of a Second Amended Protective Order [Dkt. Nos. 593, 594, 596, 598]
 - c. Tennessee Defendants' Motion to Stay Objections and Responses To Discovery Pending Submission of a Discovery Plan and Amended Protective Order [Dkt. Nos. 593, 595, 596, 598]
 - d. PSC's Consolidated Response To the Tennessee Defendants' Motions Addressing Discovery, Bellwether Protocol, and Protective Orders [forthcoming, responding to Dkt. Nos. 592, 594, 595]
5. Saint Thomas Outpatient Neurosurgical Center, LLC's Motions for Summary Judgment²
- a. Involves application of the Tennessee Health Care Liability Act, Tenn. Code Ann. § 29-26-101, et seq., including whether the Tennessee Health Care Liability Act trumps the Tennessee Product Liability Act and whether a "sale" occurred.
 - b. Plaintiffs' potential Fed.R.Civ.P. 56(d) Motion
 - c. Suggestion(s) for teeing up a global motion to dismiss or motion for summary judgment that raises global issues of Tennessee law (with a negotiated briefing schedule).
 - d. Notice of Voluntary Dismissal in *O'Brien v. Ameridose, et al.*, No. 1:13-cv-12759, with pending motion for summary judgment filed prior to removal.
6. Other Pending motions
- a. Motions to dismiss
 - i. Alaunus Pharmaceutical, LLC [Dkt. Nos. 32, 34, and 95]
 - b. Ameridose's Motion (unopposed) with the JPML to Transfer two Nevada cases
 - c. ARL Bio Pharma, Inc.'s Assented-To Motion for Extension of Time Within Which to File a Proof of Claim [Dkt. 465]
7. NECC's report on informal discovery
- a. Access to informal discovery for other parties, including the Unaffiliated Defendants
8. Status of bankruptcy proceedings
9. Status of appeals

² *Carman v. Ameridose, et al.*, No. 1:13-cv-12238, *O'Brien v. Ameridose, et al.*, No. 1:13-cv-12759, *Barger v. Ameridose, et al.*, No. 1:13-cv-12619.

Dated: December 12, 2013

Respectfully submitted,

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CERTIFICATE OF SERVICE

I, Kristen Johnson Parker, hereby certify that I caused a copy of the above Jointly Proposed Agenda for the December 13, 2013 Status Conference to be filed electronically via the Court's electronic filing system. Those attorneys who are registered with the Court's electronic filing system may access these filings through the Court's system, and notice of these filings will be sent to these parties by operation of the Court's electronic filing system.

Dated: December 12, 2013

/s/ Kristen Johnson Parker
Kristen Johnson Parker, BBO # 667261